

REMARKS

This Amendment and Response to Non-Final Office Action is being submitted in response to the non-final Office Action mailed April 4, 2008. Claims 1-22 are pending in the Application. Claims 1, 5, and 9 are the independent claims.

Claims 5 and 9 are objected to because of informalities.

Claims 1-22 are rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement.

Claims 1-2, 12-14, and 20 are rejected under 35 U.S.C. §103(a) as being unpatentable over Juniper (“Juniper Networks M40 Internet Backbone Router Inter-Operating With the CIENA MultiWave Sentry DWDM System”) in view of the admitted prior art, Waschka, Jr. (U.S. Patent No. 4,449,247), Bach *et al.* (U.S. Patent No. 6,606,354), and Hoogerbrugge (“Optimizing test strategies for SONET/SDH/ATM network element manufacturing”).

Claims 3-11, 15-19, and 21-22 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Juniper in view of the admitted prior art, Waschka, Jr., Bach, and Hoogerbrugge as applied to Claim 1, and in further view of Bullock *et al.* (U.S. Patent No. 5,764,651).

In response to these rejections, Claims 1, 5, and 9 have been amended herein to further clarify the subject matter which Applicants regard as their invention, without prejudice or disclaimer to continued examination on the merits. These amendments are fully supported in the Specification, Drawings, and Claims of the Application and no new matter has been added. Based upon the amendments, reconsideration of the Application is respectfully requested, without further search, in view of the following remarks.

Claims 5 and 9 – Objection

Claims 5 and 9 are objected to because of informalities. Accordingly, Applicants have amended Claims 5 and 9 as recited under §1 in the non-final Office Action, and Applicants respectfully request withdrawal of this objection.

Claims 1 - 22 – §112, first paragraph, Rejection

Claims 1-22 are rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. Accordingly, Applicants have amended Claims 1, 5, and 9 as suggested by Examiner in §4 of the non-final Office Action to correlate the receiver diagnostic signals with a corresponding optical receiver, and Applicants respectfully request withdrawal of this rejection.

Claims 1-2, 12-14, and 20 - §103(a) Rejection – Juniper, APA, Waschka Jr., Bach *et al.*, and Hoogerbrugge

Claims 1-2, 12-14, and 20 are rejected under 35 U.S.C. §103(a) as being unpatentable over Juniper (“Juniper Networks M40 Internet Backbone Router Inter-Operating With the CIENA MultiWave Sentry DWDM System”) in view of the admitted prior art, Waschka, Jr. (U.S. Patent No. 4,449,247), Bach *et al.* (U.S. Patent No. 6,606,354), and Hoogerbrugge (“Optimizing test strategies for SONET/SDH/ATM network element manufacturing”).

In the non-final Office Action, Examiner has relied on Waschka Jr. for teaching the limitations related to the diagnostic signals (see §7 and §9 of the non-final Office Action). Examiner cites Waschka Jr. at col. 19, lines 30-59 for teaching the diagnostic signal functionality. However, Waschka Jr. teaches isolating the fault location through “sequential testing of the stations along the channel” (see Waschka Jr. at col. 19, lines 40-41).

Applicants, on the other hand, are providing simultaneous testing of all channels with a single BER test set and the diagnostic signals enable isolation of bit errors between each transmitter/receiver pair. This is not sequential testing as taught by Waschka Jr., but rather parallel testing.

The Juniper reference teaches simultaneous testing of all channels with a single BER test set. However, there is no teaching of how to isolate bit errors on individual channels between each transmitter/receiver pair. Applicants, on the other hand, utilize the diagnostic signals for isolation. The diagnostic signals are not taught by Juniper.

The Hoogerbrugge reference is cited according to the Examiner to teach simultaneous testing. However, the combination of Hoogerbrugge with Waschka Jr. does not teach simultaneous testing with the ability to isolate bit errors on individual channels. Waschka Jr. only teaches this functionality on a single span, and not performing this functionality on cascaded spans simultaneously. There is no teaching in a combination of Waschka Jr. with Hoogerbrugge to isolate bit errors in a simultaneous test without performing sequential bit error tests.

Specifically, Applicants have included the following limitation in Claim 1:

wherein the plurality of transmitter diagnostic output signals and the plurality of receiver diagnostic output signals enable the single bit error rate test source to isolate excessive bit errors in the cascaded said N optical communication channels while simultaneously testing the N optical communication channels from the single bit error rate test source.

A similar amendment has also been included in Claims 5 and 9. These limitations clarify that the present invention tests all channel simultaneously using the diagnostic signals for fault isolation. Waschka Jr., on the other hand, requires each channel to be tested sequentially to determine the fault isolation. Respectfully, Applicants' limitation is not taught or suggested by Waschka Jr. or the APA.

Therefore, Applicants respectfully submit that the rejection of Claims 1-2, 12-14, and 20 under 35 U.S.C. §103(a) has been traversed, and respectfully request withdrawal of this rejection.

Claims 3-11, 15-19, and 21-22 - §103(a) Rejection – Juniper, APA, Waschka Jr., Bach et al., Hoogerbrugge, and Bullock et al.

Claims 3-11, 15-19, and 21-22 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Juniper in view of the admitted prior art, Waschka, Jr., Bach, and Hoogerbrugge as applied to Claim 1, and in further view of Bullock *et al.* (U.S. Patent No. 5,764,651). The amendments and remarks with regard to Claims 1, 5, and 9 apply with equal force here. Therefore, Applicants respectfully submit the rejection has been traversed, and respectfully request withdrawal of this rejection.

CONCLUSION

Applicants would like to thank Examiner for the attention and consideration accorded the present Application. Should Examiner determine that any further action is necessary to place the Application in condition for allowance, Examiner is encouraged to contact undersigned Counsel at the telephone number, facsimile number, address, or email address provided below. It is not believed that any fees for additional claims, extensions of time, or the like are required beyond those that may otherwise be indicated in the documents accompanying this paper. However, if such additional fees are required, Examiner is encouraged to notify undersigned Counsel at Examiner's earliest convenience.

Respectfully submitted,

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